

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:18-cv-659-FDW

JORGE GALEAS-MENCHU, JR.,)
)
)
Plaintiff,)
)
)
vs.)
)
)
JORGE GEVARA, et al.,)
)
)
Defendants.)
)

ORDER

THIS MATTER is before the Court on periodic review of the record.

Plaintiff, a *pro se* inmate of the North Carolina Department of Public Safety, filed the instant Complaint pursuant to 42 U.S.C. § 1983 on December 4, 2018. The Clerk of Court mailed Plaintiff a Notice of Deficiency, (Doc. No. 2), to his address of record on the December 12, 2018 requiring Plaintiff to pay the filing fee or file an application to proceed *in forma pauperis*. He was cautioned that the failure to comply within 21 days may result in dismissal of this action without prejudice for failure to prosecute. The Notice was returned as undeliverable on January 3, 2019 with a notation “Inmate refused.” (Doc. No. 3 at 1).

The Notice was mailed to Plaintiff for a second time on January 17, 2019. It was returned as undeliverable with a notation “refused” on January 31, 2019. (Doc. No. 6).

The Notice was mailed to Plaintiff for a third time on January 28, 2019. (Doc. No. 5). It was returned as undeliverable on February 2, 2019 as with notations “refused” and “Inmate is refusing Legal Mail.” (Doc. No. 8 at 1).

Plaintiff has filed two *pro se* Letters and a “Notice of Default Affidavit of Notice,” but he has neither paid the filing fee nor filed a motion to proceed *in forma pauperis* as instructed in

December 4, 2018 Notice. See (Doc. Nos. 4, 5, 7).

Plaintiff was warned in the December 12 Notice, that was mailed to his address of record on three occasions, that this action may be dismissed without prejudice for lack of prosecution if he did not pay the filing fee or move to proceed *in forma pauperis* within 21 days. He has failed to comply and is refusing legal mail.¹ It appears that Petitioner is unwilling to cure the deficiency in his filing and has abandoned this action. This action will be dismissed without prejudice for lack of prosecution.

IT IS, THEREFORE, ORDERED that:

- (1) This action is dismissed without prejudice for lack of prosecution.
- (2) The Clerk of this Court is directed to terminate this action.

Signed: February 11, 2019



Frank D. Whitney
Chief United States District Judge

¹ The Court declines to issue an order for Plaintiff to show cause why this action should not be dismissed because Plaintiff is refusing legal mail.